

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

50829

97/48

FILE: B-184046

DATE: June 25, 1975

MATTER OF: LML Corporation

**DIGEST:**

Where invitation called for bid covering entire construction project in addition to bids for individual items, insertion of price for entire project which was less than total of bid prices on individual items did not render bid nonresponsive. Invitation cannot reasonably be construed as limiting amount of bid for entire project to sum total of prices for individual items and thereby preclude bidding a more advantageous price for totality of items. Furthermore, bidder, if awarded contract for entire project, is obligated to perform services at price quoted for entire job, not at bid prices for individual items.

The Veterans Administration (VA) has requested our decision concerning the protest of LML Corporation (LML) against the proposed award of a contract to Donald E. Reisinger, Inc. (Reisinger), by the VA Hospital, Coatsville, Pennsylvania, under invitation for bids (IFB) No. 542-46-75. The IFB solicited bids for the repair of various walk-in cold rooms.

The invitation's "Bid Form" listed five items (I-V) of general construction designated by room number and job description. Space was provided adjacent to each item for the insertion of a price for both the construction materials and for services as well as a total lump-sum bid for each item. In addition, item VI, entitled "Entire Job as Described" requested a total bid for the entire project consisting of the five items. While the VA intended that a single award would be made for the entire project, bidders were also required to bid on an aggregate of items I-IV and an aggregate of items I, II, and IV, in the event the low bid for item VI exceeded the funds available for the project.

Ten bids were received and opened on April 7, 1975. The apparent low bid for the entire job, item VI, was from Reisinger in the amount of \$57,372 and the next low bid in the amount of \$61,880 was submitted by LML. Award of the contract to Reisinger has been withheld pending resolution of the protest.

The following analysis of Reisinger's bid shows that there was a parallel between the firm's aggregate prices and the scope of the project. Increasingly larger reductions from the sum of the individual item prices were offered as more items were included within the work:

	<u>Items I-V</u>	<u>Items I-IV</u>	<u>Items I, II &amp; IV</u>
	\$30,000	\$30,000	\$30,000
	13,300	13,300	13,300
	4,500	4,500	-
	7,000	7,000	7,000
	14,780	-	-
Total Amounts Without Reductions	\$69,580	\$54,800	\$50,300
Total Aggregate (Item VI)	\$57,372	\$48,309	\$46,072
Percentage of Reduction	17.5	11.8	8.4

LML contends that Reisinger's bid should be rejected as non-responsive because Reisinger inserted a price on Item VI (\$57,372) which was less than the sum of the individual prices it submitted on Items I thru V (\$69,580). The protester asserts that the invitation required that the price to be entered for Item VI should equal the total of the prices bid on Items I thru V and that in essence, Reisinger submitted two bids on the project thus retaining the option of receiving the contract at the higher price obtained by totaling its individual bids for Items I thru V.

For the following reasons the protest is denied.

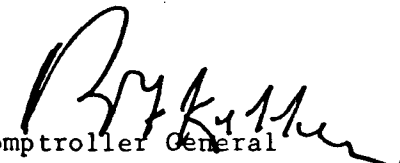
The protester correctly points out that the procuring activity contemplated awarding a single contract for the five items or certain combinations thereof, depending on the prices bid and the funds available. However, we do not agree that the invitation contained a prohibition against the submission of a price for Item VI, the entire project, which was less than the total of the prices submitted for the five items constituting the project. In this regard, it is elemental that an award in a publicly advertised procurement is to be made to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. See 41 U.S.C. § 253(b) (1970) and Federal Procurement Regulations § 1-2.407-1 (1964 ed. amend. 95).

Thus, in our opinion it is obvious that the purpose for providing in the invitation for a total bid for all the items was to obtain a more advantageous price for the total project and not an aggregate bid consisting of a mere reiteration of the bid prices for the individual items. Resdel Engineering Corporation, B-180110, February 22, 1974. To prohibit a bidder from reducing its price for the entire project under item VI would reduce the requirement for entry of a price in item VI to a mere mathematical computation, i.e., the simple addition of the total prices bid on items I thru VI, and would certainly not be in the best interests of the Government.

We regard as without merit the protester's contention that Reisinger retained the "option" of receiving a contract based on either its bid for item VI or the higher total of its bid prices for items I thru V. Reisinger's bid of \$57,372 for item VI, verified after bid opening, is a definite, fixed price and clearly obligates the firm, if awarded the contract, to complete the entire project at that price. Nowhere on the face of its bid does Reisinger reserve for itself the option to perform the entire project for a price other than that quoted in its bid for item VI.

Finally, the protester suggests that if all bids for item VI other than Reisinger's exceeded \$69,580, Reisinger could have alleged that its price of \$57,372 for that item was in error and that it had intended to bid \$69,580 for the entire project. If that hypothetical situation had arisen, Reisinger would be entitled to the correction only upon establishing the existence of the error and the intended bid through "clear and convincing" evidence. FPR § 1-2.406-3 (1964 ed.). In view of this evidentiary standard which must be met, we do not think that Reisinger had the "option" of deciding which of two amounts should be considered as its bid for the entire project.

Accordingly, we have no legal objection to the VA's proposed award of the contract to Reisinger.

  
Deputy Comptroller General  
of the United States